

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID E. ROBERT,

Defendant.

OPINION AND ORDER

13-cr-131-bbc

Defendant David E. Robert has filed a motion, asking the court to undertake an *in camera* inspection of the presentence reports prepared in United States v. Stoltenberg, 12-cr-140-bbc-1, and in United States v. Gray, 12-cr-98-bbc-1, as well as the motion for reduction of sentence filed in the Gray case. The general rule is that these documents are confidential and anyone wishing to view one for use in another criminal case must show a particularized need for disclosure. Only if this showing is made is the court required to review the report *in camera* to determine whether the report contains material that would be exculpatory or provide grounds for impeachment. United States v. McGee, 408 F.3d 966, 974 (7th Cir. 2005).

Defendant has shown a sufficient need for disclosure. According to the government, Gray and Stoltenberg were involved with defendant in the crime charged against him by the grand jury and in all probability will be called as witnesses against him. Their versions of the

crime may provide a basis for impeaching their trial testimony; it is also possible that the statements will provide grounds for exculpating defendant.

With this in mind, I have reviewed the presentence reports in both cases and am attaching to this order under seal those portions of each report that relate to the offense conduct and the statements of both defendants. In addition, the presentence reports show that defendant Stoltenberg had two driving while intoxicated charges (in 2003 and in 2010) and one citation for operating without carrying a license (2012), and that defendant Gray had no criminal charges.

Finally, I am attaching under seal two paragraphs of the government's motion for a downward variance in defendant Gray's case, addressing the significance and usefulness of the information he provided (without describing anything more than is disclosed about the nature of this information) and the government's assessment of its truthfulness and reliability. Neither of the presentence reports nor the motion contains any other information that in my judgment would be of use to defendant Robert.

ORDER

IT IS ORDERED that defendant David Robert's motion for an *in camera* inspection of the presentence report prepared in United States v. Stoltenberg, 12-cr-140-bbc-1, and the presentence report and motion for reduction of sentence filed in United States v. Gray,

12-cr-98-bbc-1 is GRANTED.

Entered this 19th day of March, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge